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13 March 2020

Dear Mr Rippingill

<b>Application No.</b>	APP-0006093562
<b>Applicant</b>	Australand Corporation (NSW) Pty Limited
<b>Application for</b>	Hotel licence with a minors area authorisation
<b>Licence name</b>	The Waterfront Tavern
<b>Premises</b>	Marina Drive Shell Cove NSW 2529
<b>Trading hours</b>	<u>Consumption on premises</u> Monday to Saturday 10:00 am – 12:00 midnight Sunday 10:00 am – 10:00 pm <u>Take away liquor sales</u> Monday to Saturday 10:00 am – 10:00 pm Sunday 10:00 am – 9:59 pm

### **Decision of the Independent Liquor & Gaming Authority Application for a hotel licence – The Waterfront Tavern**

The Independent Liquor & Gaming Authority ('Authority') considered the application above, and decided on 12 February 2020 to **approve** the application under section 45 of the *Liquor Act 2007* (Act), subject to imposing conditions as set out in Schedule 1, a copy of which is attached.

#### **Approved manager or transfer to an individual licensee**

The licence cannot be exercised unless and until Liquor & Gaming NSW has been notified of the appointment of an approved manager to the licence, or the licence has been transferred to an individual licensee.

#### **Takeaway liquor sales**

By the operation of an exemption in clause 117 of the Liquor Regulation 2018, liquor may be sold or supplied at the hotel premises for takeaway consumption between 10 pm and 12 midnight on days other than Sundays.

#### **Concise statement of reasons**

A concise statement of reasons for this decision is attached at the end of this letter.

In the interest of efficient finalisation of determined matters in a high-volume liquor and gaming jurisdiction, the Authority will only produce a detailed statement of reasons for applications which are refused, partially approved or the subject of stakeholder objections.

A concise statement of reasons is produced for non-contested applications that have been approved by the Authority, in cases where a statement of reasons is required to be published for the application under section 36C of the *Gaming and Liquor Administration Act 2007*.

The concise statement of reasons briefly sets out the material considered by the Authority, the legislative requirements, and the Authority's key findings.

If you have any questions, please contact the case manager Charles Rivers at [charles.rivers@liquorandgaming.nsw.gov.au](mailto:charles.rivers@liquorandgaming.nsw.gov.au).

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Philip Crawford', written in a cursive style.

Philip Crawford  
Chairperson  
For and on behalf of the Independent Liquor & Gaming Authority

## Concise statement of reasons

### Key facts

<b>Application No.</b>	APP-0006093562
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<b>Application date</b>	23 August 2019
<b>Decision</b>	Approved under section 45 of the <i>Liquor Act 2007</i>
<b>Decision date</b>	12 February 2020

### Material considered by the Authority

The Authority has considered the following material in determining the application:

- Application material, including evidence of notification to specified stakeholders and the community about the application;
- Category B community impact statement;
- Premises plan setting out the proposed boundaries of the licensed premises;
- Plan of management for the licensed business at the premises;
- Development consent for the premises;
- Statistics sourced from Liquor & Gaming NSW, Bureau of Crime Statistics and Research, NSW Health and Australian Bureau of Statistics in respect of the socio-economic status, liquor licence density, alcohol-related crimes rates, and health issues in the relevant local and broader communities; and
- Stakeholder submissions in relation to the application, and the applicant's response to those submissions.

### Legislative requirements

The Authority has considered the application in the context of the following sections of the *Liquor Act 2007*, and the associated clauses of the Liquor Regulation 2018:

- Section 3: Statutory objects of the Act and relevant considerations.
- Section 11A: The mandatory 6 hour period during which liquor cannot be sold.
- Section 12: The standard trading period for licensed premises including hotels.
- Sections 14-17: Provisions specific to a hotel licence.
- Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
- Section 45: Criteria for granting a liquor licence.
- Section 48: Requirements in respect of a CIS, including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community.
- Section 121: Specific provisions in respect of a minors area authorisations.

- Section 122: Specific provisions in respect of a minors functions authorisation.

The Authority has also had regard to its Guideline 6 in considering the overall social impact of approving the application pursuant to section 48 of the Act.

### **Key findings**

In accordance with its Guideline 6, the Authority finds that the relevant local community for the purposes of this decision is the suburb of Shell Cove, and the broader community is the Local Government Area of Shellharbour.

#### Positive social impacts

There is currently one hotel in Shell Cove, and the density of hotel licences in the local and broader communities is significantly lower than the NSW state average.

The Authority is satisfied on the material before it that the proposal set out in the application, if approved, would likely benefit the local and broader communities by way of increased access to liquor and other services and facilities at the hotel premises.

#### Negative social impacts

The Authority notes that the prevailing level of alcohol-related crime and health issues in the local and broader communities are generally lower than the NSW state average, and the relevant statistics in respect of the socio-economic status of both communities do not raise immediate concerns.

The Authority also accepts that any potential risks of alcohol-related harm associated with approving the application are further mitigated by the:

- absence of any objections from agency stakeholders or members of the community
- harm minimisation measures set out in the plan of management and the licence conditions in Schedule 1.

#### Overall social impacts and conclusion

Having considered the positive and negative social impacts that are likely to flow from the applicant's proposal, the Authority is satisfied that the overall social impact of approving the application will not be detrimental to the well-being of the local or broader community.

The Authority is also satisfied that the other legislative requirements for the approval of the application have been met.

The Authority finds, having regard to the above, that approving the application is consistent with the statutory objects and considerations of the Act to regulate the liquor industry in line with the community's expectations, needs and aspirations, and facilitate the balanced and responsible development of the liquor industry and related industries.

Accordingly, the Authority approves the application under section 45 of the Act.



Philip Crawford  
Deputy Chairperson

## Schedule 1 – Licence conditions to be imposed

1. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of six (6) hours between 4:00 AM and 10:00 AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
2. Restricted trading & NYE (std)  
Consumption on premises

Good Friday	12:00 noon – 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)
Christmas Day	12:00 noon – 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)
December 31 <sup>st</sup>	Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later

Note: Trading is also allowed after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5:00 AM.
3. Restricted trading & NYE  
Take away sales

Good Friday	Not permitted
Christmas Day	Not permitted
December 31 <sup>st</sup>	Normal trading
4. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
5. The premises is to be operated at all times in accordance with the Plan of Management dated 30 January 2020 as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor & Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
6. The licensee or its representative must join and be an active participant in the local liquor accord.
7. Closed-circuit television system
  - 1) The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:
    - (a) the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of a premises that is not required to cease trading, continuously at all times),
    - (b) recordings must be in digital format and at a minimum of six (6) frames per second,
    - (c) any recorded image must specify the time and date of the recorded image,
    - (d) the system's cameras must cover the following areas:
      - (i) all entry and exit points to the premises,
      - (ii) the footpath immediately adjacent to the premises, and
      - (iii) all publicly accessible areas (other than toilets) within the premises.
  - 2) The licensee must also:
    - (a) keep all recordings made by the CCTV system for at least 30 days,
    - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
    - (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.

8. Incident register

- 1) The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident:
  - a) any incident involving violence or anti-social behaviour occurring on the premises,
  - b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,
  - c) any incident that results in a person being turned out of the premises under section 77 of the Liquor Act 2007,
  - d) any incident that results in a patron of the premises requiring medical assistance.
- 2) The licensee must, if requested to do so by a police officer or Liquor & Gaming NSW inspector:
  - a) make any such incident register immediately available for inspection by a police officer or Liquor & Gaming NSW inspector, and
  - b) allow a police officer or Liquor & Gaming NSW inspector to take copies of the register or to remove the register from the premises.
- 3) The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.

9. Immediately after the person in charge of the licensed premises or a staff member becomes aware of any incident involving an act of violence causing injury to a person on the premises, the person in charge of the licensed premises and/or staff member must:

- 1) take all practical steps to preserve and keep intact the area where the act of violence occurred,
- 2) retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by NSW Police, as published from time to time on the Liquor & Gaming NSW website,
- 3) make direct and personal contact with NSW Police to advise it of the incident, and
- 4) comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.

In this condition, 'staff member' means any person employed by, or acting on behalf of, the licensee of the premises, and includes any person who is employed to carry on security activities (e.g. crowd controller or bouncer) on or about the premises.

10. Declared organisations

- 1) The licensee must not permit any person to enter the premises, or to remain on the premises, if the person is wearing or carrying any clothing, jewellery or accessory displaying:
  - a) the name of any of the following motorcycle-related and similar organisations: Bandidos, Black Uhlans, Coffin Cheaters, Comanchero, Finks, Fourth Reich, Gladiators, Gypsy Jokers, Hells Angels, Highway 61, Life & Death, Lone Wolf, Mongols, Mobshitters, Muslim Brotherhood Movement, Nomads, Notorious, Odin's Warriors, Outcasts, Outlaws, Phoenix, Rebels, Rock Machine, Satudarah, Scorpions, or any "declared organisation" within the meaning of the Crimes (Criminal Organisation Control) Act 2012,
  - b) the colours, club patch, insignia or logo of any such organisation,
  - c) the "1%" or "1%er" symbol, or
  - d) any image, symbol, abbreviation, acronym or other form of writing that indicates membership of, or an association with, any of the organisations specified in clause 1(a).
- 2) Any incident where a person is refused entry or removed from the premises in relation to this condition must be recorded in the incident register.

11. Minors Area Authorisation: Whole of licensed premises excluding kitchen and gaming room.